

By: Turner of Tarrant

H.B. No. 2539

Substitute the following for H.B. No. 2539:

By: Herrero

C.S.H.B. No. 2539

A BILL TO BE ENTITLED

AN ACT

relating to requiring computer technicians to report images of child pornography; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 109 to read as follows:

CHAPTER 109. COMPUTER TECHNICIANS REQUIRED TO REPORT CHILD PORNOGRAPHY

Sec. 109.001. DEFINITIONS. In this chapter:

(1) "Child pornography" means an image of a child engaging in sexual conduct or sexual performance.

(2) "Commercial mobile service provider" has the meaning assigned by Section 64.201, Utilities Code.

(3) "Computer technician" means an individual who in the course and scope of employment or business installs, repairs, or otherwise services a computer for a fee.

(4) "Information service provider" includes an Internet service provider and hosting service provider.

(5) "Sexual conduct" and "sexual performance" have the meanings assigned by Section 43.25, Penal Code.

(6) "Telecommunications provider" has the meaning assigned by Section 51.002, Utilities Code.

Sec. 109.002. REPORTING OF IMAGES OF CHILD PORNOGRAPHY.

(a) A computer technician who, in the course and scope of

1 employment or business, views an image on a computer that is or  
2 appears to be child pornography shall immediately report the  
3 discovery of the image to a local or state law enforcement agency or  
4 the Cyber Tipline at the National Center for Missing and Exploited  
5 Children. The report must include the name and address of the owner  
6 or person claiming a right to possession of the computer, if known,  
7 and as permitted by federal law.

8 (b) Except in a case of wilful or wanton misconduct, a  
9 computer technician may not be held liable in a civil action for  
10 reporting or failing to report the discovery of an image under  
11 Subsection (a).

12 (c) A telecommunications provider, commercial mobile  
13 service provider, or information service provider may not be held  
14 liable under this chapter for the failure to report child  
15 pornography that is transmitted or stored by a user of the service.

16 Sec. 109.003. CRIMINAL PENALTY. (a) A person who  
17 intentionally fails to report an image in violation of this chapter  
18 commits an offense. An offense under this subsection is a Class B  
19 misdemeanor.

20 (b) It is a defense to prosecution under this section that  
21 the actor did not report the discovery of an image of child  
22 pornography because the child in the image appeared to be at least  
23 18 years of age.

24 SECTION 2. This Act takes effect September 1, 2013.